

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF PENNSYLVANIA**

MALLET AND COMPANY INC.,	)	
	)	
<i>Plaintiff,</i>	)	Civil Action No. 2:19-cv-01409-CB
	)	
v.	)	The Honorable Cathy Bissoon
	)	
ADA LACAYO, RUSSELL T. BUNDY	)	<i>Electronically Filed</i>
ASSOCIATES, INC., d/b/a BUNDY	)	
BAKING SOLUTIONS, SYNOVA, LLC,	)	
and WILLIAM “CHICK” BOWERS,	)	
	)	
<i>Defendants.</i>	)	
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	)	
RUSSEL T. BUNDY ASSOCIATES, INC.,	)	
d/b/a BUNDY BAKING SOLUTIONS and	)	
SYNOVA, LLC,	)	
	)	
<i>Counterclaim Plaintiffs,</i>	)	
	)	
v.	)	
	)	
MALLET AND COMPANY INC., ADA	)	
LACAYO, and WILLIAM “CHICK”	)	
BOWERS,	)	
	)	
<i>Counterclaim Defendants.</i>	)	
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**RESPONSE TO PLAINTIFF’S MOTION FOR LEAVE TO FILE ITS  
BRIEF IN SUPPORT OF ITS AMENDED MOTION FOR PRELIMINARY  
INJUNCTION UNDER SEAL**

Defendants Russell T. Bundy Associates, Inc. d/b/a Bundy Baking Solutions (“Bundy”) and Synova, LLC (“Synova”, collectively with Bundy, the “Bundy Parties”), by their counsel, Porter Wright Morris & Arthur LLP, file the within Response to Plaintiff’s Motion for Leave to File its Brief in Support of its Amended Motion for Preliminary Injunction Under Seal (ECF 81, the “Motion”), stating as follows:

1. By its Motion, Plaintiff seeks leave of the Court to file entirely under seal its proposed Brief in Support of its Amended Motion for Preliminary Injunction (the “Brief”) given the citation in the Brief to certain portions of the discovery record which have been designated either “Confidential” and/or “Attorney’s Eyes Only” under the terms of the Confidentiality Agreement (ECF 37).

2. The Bundy Parties do not dispute the confidential nature of the record Plaintiff intends to cite in its Brief and the need for the sealing of the same. The Bundy Parties do dispute, however, Plaintiff’s request to file its Brief wholly under seal.

3. Additionally, the Bundy Parties are filing this Response to correct the incomplete recitation of the parties’ meet and confer discussions regarding Plaintiff’s request for leave to file its Brief under seal. *See id.* at ¶ 13.<sup>1</sup>

4. During those discussions, the Bundy Parties requested that Plaintiff propose appropriate redactions to its Brief, in compliance with paragraph 10 of the Confidentiality Agreement and the Third Circuit’s directives in *In re Avandia Mktg., Sales & Prods. Liab. Litig.*, 924 F.3d 662 (3d Cir. 2019).

5. To this end, Paragraph 10 of the Confidentiality Agreement states, in pertinent part:

Before filing or offering as exhibits any pleadings or other documents that contain Confidential Materials, the parties ***shall confer and attempt to agree on redactions*** that would permit the filing or offering of the pleadings, exhibits, or other documents in open court. If the parties are unable to agree on such redactions, the party seeking to file or offer the documents shall move the Court for an order permitting such pleadings or other documents to be filed or offered under seal.

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<sup>1</sup> The Bundy Parties also take issue with Plaintiff’s attempts to mischaracterize the factual record in its Motion. *See* ECF 81 at ¶¶ 3-4, 8. Those disputes will be more appropriately addressed when this case is determined on its merits.

ECF 37 at ¶ 10 (emphasis added).

6. Plaintiff refused to engage in this process which the parties specifically agreed to in the Confidentiality Agreement, stating its belief that proposing redactions, thereby providing a copy of its Brief to the Bundy Parties prior to filing, would be “inappropriate.” And, it was not until Plaintiff filed its Motion that the Bundy Parties learned of Plaintiff’s intention to file its Brief entirely under seal.

7. For the reasons stated in *In re Avandia, supra*, and in consideration of Paragraph 10 of the Confidentiality Agreement, Plaintiff should be required to propose appropriate redactions to its Brief for the Bundy Parties’ consideration, instead of being permitted to file the entire document under seal.

WHEREFORE, the Bundy Parties respectfully request that this Court enter an Order directing Plaintiff to comply with the Confidentiality Agreement (ECF 37) and propose appropriate redactions to its Brief in lieu of being permitted to file its Brief entirely under seal.

Respectfully submitted,

Date: July 19, 2020

By: /s/ Ronald L. Hicks, Jr.  
Ronald L. Hicks, Jr.  
PA #49520  
Russell D. Giancola  
PA #200058  
Carolyn B. McGee  
PA #208815

**PORTER WRIGHT MORRIS &  
ARTHUR LLP**  
Six PPG Place, Third Floor  
Pittsburgh, PA 15222  
(412) 235-4500 (Telephone)  
(412) 235-4510 (Fax)

rhicks@porterwright.com  
rgiancola@porterwright.com  
cmcgee@porterwright.com

*Counsel for Defendants/Counterclaim Plaintiffs  
Russell T. Bundy Associates Inc. d/b/a  
Bundy Baking Solutions and Synova, LLC*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on July 19, 2020, I electronically filed the foregoing *Response to Plaintiff's Motion Leave to File its Brief In Support of its Amended Motion for Preliminary Injunction Under Seal* using the CM/ECF system, which constitutes service upon all counsel of record.

/s/ Ronald L. Hicks, Jr.

Ronald L. Hicks, Jr.

PA #49520

Russell D. Giancola

PA #200058

Carolyn B. McGee

PA #208815